

INVESTOR EDUCATION AND ASSISTANCE PROGRAM

EXECUTIVE SUMMARY

The Securities and Exchange Commission's Office of Inspector General conducted an audit of the Commission's Investor Education and Assistance Program (IEAP). The objectives of the IEAP are: investor education, processing of investor complaints, and analysis of investor complaints and inquiries (to provide intelligence to the Enforcement and Compliance Inspection & Examination programs, the field offices, as well as the IEAP itself). The Office of Investor Education and Assistance (OIEA) and investor specialists in most regional and district offices conduct the program. In recent years, the IEAP has experienced a significant increase in the volume of investor complaints and inquiries, without a corresponding increase in staffing. Our audit objective was to evaluate the effectiveness and efficiency of the IEAP.

We found that, overall, OIEA and the field offices have been successful at achieving the investor education objective. Nonprofit educational organizations we surveyed believed that the OIEA's educational activities (e.g., Investor's Town Meetings, pamphlets, and web site) are very effective and that information is available to investors. Information is also provided to investors in the processing of investor complaints and inquiries. In addition, OIEA recognizes the challenge to reach and educate financially illiterate or unsophisticated investors who will have increased responsibility for their own financial future.

Several obstacles to fully achieving IEAP's complaint processing and intelligence analysis objectives exist. The volume of investor complaints and inquiries has increased 108% from fiscal years 1993 to 1999. Although no additional staff has been budgeted for this process, OIEA has taken several steps to accommodate the increased workload. We believe that additional changes in processing investor complaints and inquiries would further increase the productivity of IEAP staff. In addition, lack of central policy and direction between OIEA and the field offices has created uneven processing of investor complaints and inquiries, analysis of intelligence, and services to investors. Finally, we believe that the current tracking and management information system is outdated and needs to be rethought.

We are making several recommendations to improve the overall effectiveness and efficiency of the IEAP. We are recommending that complaint processing and intelligence analysis be reengineered with a focus on uniform and effective policy, procedures, performance measures, and information systems. OIEA and the field offices have already initiated several actions to improve the efficiency of the complaint and inquiry process and we commend them for their proactive efforts.

We have received numerous oral and written comments from the Commission divisions and offices involved in the IEAP program. The report has been modified accordingly.

AUDIT SCOPE AND OBJECTIVES

Our audit objective was to evaluate the effectiveness and efficiency of the Investor Education and Assistance Program (IEAP). During the audit, we interviewed and/or surveyed Commission staff (especially investor specialists), staff at other federal regulatory agencies, officials at Self-Regulatory Organizations (SRO), and individuals from nonprofit organizations that educate the public about finance, investing, and other related topics. We also reviewed applicable documentation, attended one of the Investor's Town Meetings, and performed analysis (*e.g.*, review of investor complaint files), among other procedures. We did not review the reasonableness of computer system entries.

The audit was performed between October 1998 and June 1999 in accordance with generally accepted government auditing standards, except we did not comply with the auditing standard Validity and Reliability of Data From Computer Based Systems (GAGAS 6.62). The IEAP's Agency Correspondence and Tracking System (ACTS) and the Division of Enforcement's Case Activity Tracking System (CATS) computer systems were not audited because OIEA is trying to replace ACTS, and the Division of Enforcement recently replaced CATS to ensure it was year 2000 compliant. Thus, auditing these computer systems would provide little benefit. We have disclosed instances where we have relied on computer-generated data.

BACKGROUND

Our most recent previous audit (Audit No. 202) of the IEAP was issued in September 1994. More recently, the Office of Investor Education and Assistance (OIEA) hired a consultant in 1997 to review OIEA's investor complaint and inquiry process in order to improve efficiency.

IEAP OBJECTIVES

Investor Education

An increasingly important objective of the IEAP is investor education. To make investors more aware of investment risks and benefits, OIEA conducts educational activities for investors (*e.g.*, Investor's Town Meetings, Facts on Saving and Investing Campaign, pamphlets, and a web site). Four OIEA staff are assigned to this function. According to the Division of Enforcement, field office staff devote lots of time in support of the Town Meetings and other educational events (*e.g.*, senior field office staff are often called upon to speak to investor groups).

Another important part of investor education occurs when IEAP staff respond to investor inquiries. Inquiries represent over 50% of the IEAP's annual workload. For example, the IEAP responds to investor inquiries regarding:

- Whether old stock certificates have value;
- What to do when stock certificates are lost, stolen, or never received;
- What happens to a company's stock when the company files for bankruptcy; and
- How to obtain information about companies.

In addition, OIEA stated that the IEAP provides investors with pertinent information when processing investor complaints. IEAP investor specialists provide educational information over the telephone, in writing, or by sending an appropriate pamphlet to investors that make complaints.

Complaint Processing

Commission Rule 17 CFR 200.24a(b), states that OIEA is responsible for:

“... implementing and administering a nationwide system for resolving investor complaints against individuals and entities regulated by the Commission by processing complaints received from individual investors and assuring that regulated individual {sic} and entities process and respond to such complaints.”¹

Currently, upon receiving a complaint, an IEAP investor specialist writes the firm involved and asks for a response to the allegation(s). The investor specialist then monitors whether a response has been received. However, the IEAP does not have statutory authority to compel the firm to remedy the investor's complaint, even if the investor's allegation(s) are valid. If the investor and the firm cannot reach an agreement, the investor must usually arbitrate the dispute pursuant to a written arbitration agreement between the investor and the firm.

OIEA investor specialists are assigned written investor complaints based on the nature of the complaint (*e.g.*, investor complaints against issuers, transfer agents, etc.). However, telephone calls are assigned on a rotational basis. OIEA investor specialists have their work reviewed by a Branch Chief.

In the field offices, the extent of supervisory review varies. The supervisor either: (1) periodically spot checks the investor specialist's work, (2) relies on the investor specialist to bring novel, complex, or unique situations to the supervisor's attention, or (3) reviews everything. According to the Division of Enforcement, the field office investor specialists are quite experienced and seek assistance from supervisors when

¹ Although the Commission originally defined the objective for resolving investor complaints in terms of “output” (*i.e.*, process complaints) in the CFR, recent legislation (*e.g.*, Government Performance and Results Act) and administration initiatives (*e.g.*, National Partnership for Reinventing Government) require agencies to also consider “outcomes” (*e.g.*, investor assistance, education). To assess the effectiveness of IEAP complaint processing, we reviewed the outcomes of a sample of complaints that were processed by the program (see Appendix B).

needed. OIEA has no direct supervisory or management responsibility for the field offices, but does provide some guidance.

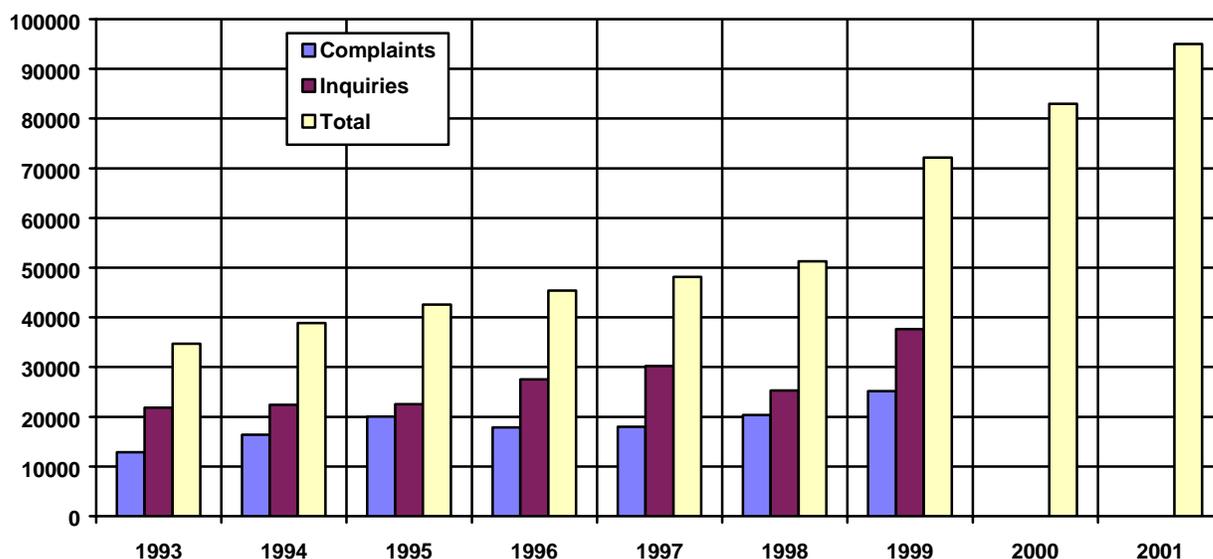
Intelligence Analysis

The third objective of the IEAP is intelligence analysis for potential regulatory actions (*e.g.*, a Division of Enforcement investigation or a targeted inspection/examination). This entails reviewing the investor's complaint to identify potential violations of the securities laws that need to be referred to the Commission's Enforcement staff or Compliance Inspectors and Examiners, field offices, SROs, state regulators, or other federal agencies. Investor complaints are also an important source for identifying potential problems (*e.g.*, policy issues) in the securities industry. Trends or observations from investor complaints can also lead to the Commission developing an educational campaign (*e.g.*, on-line trading), conducting examinations, or identifying the need for rulemaking.

WORKLOAD AND RESOURCES

Investor complaints have substantially increased recently. According to OIEA, in fiscal year 1999, there were 72,173 complaints and inquiries received by the IEAP, compared to 34,713 in 1993. The IEAP's workload has increased by 108% from fiscal years 1993 to 1999. During this time, the staffing level of individuals who process investor complaints and inquiries has remained relatively constant. The graph below shows the investor complaints and inquiries volume for the IEAP.²

² The information for fiscal years 1993 through 1998 was obtained from the 1998 SEC Annual Report. Data for fiscal year 1999 was obtained from OIEA. The information for fiscal years 2000 and 2001 is a projected workload and was obtained from the Commission's fiscal year 2001 budget. Prior to 1998, repeat contacts, contacts with insufficient information, etc. were reported as inquiries. However, beginning in 1998, they were reported as a separate category "Other Contacts". The "Other Contacts" column is not shown on the graph for 1998 and 1999. However, the number of "Other Contacts" is reflected in the "information Total" column. There were 5,646 and 9,358 repeat contacts, contacts with insufficient information, etc. for fiscal years 1998 and 1999 respectively.



Some of the increase in the complaint and inquiry volume was caused by investors becoming aware of the IEAP through the Internet and other efforts made by the Commission to publicize the IEAP. OIEA recognized that a backlog³ was beginning and initiated several actions. For instance, OIEA:

- Hired a consultant to review the investor complaint and inquiry process;
- Tried to find a new computer system;
- Made several investor complaint and inquiry process changes before and during the audit;
- Requested additional staffing; and
- Developed new web pages to provide more information to investors, thus reducing the need for investors to communicate with IEAP staff.

We commend OIEA for taking these proactive actions.

The Chairman also became aware of the backlog and requested various divisions and offices to assist OIEA in processing the backlog of investor complaints and inquiries. In addition, OIEA implemented an automated telephone system with prompts to help make the complaint and inquiry process more efficient.

Because of OIEA's efforts and the assistance of other divisions and offices, the backlog has been significantly reduced. According to OIEA, as of December 12, 1999, there were approximately 1,444 open investor complaints and inquiries (a decrease of approximately 75%), 30% of which were over 30 days old.

³ For instance, as of October 4, 1998, OIEA (*i.e.*, not including any of the field offices) had 5,829 open investor complaints and inquiries, most of which were over 30 days old. The term "open" refers to unanswered and pending complaints and inquiries. Pending complaints are awaiting a response from the regulated entity. However, even though the entity has not responded, the IEAP has provided the investor with information about their legal rights, arbitration, etc.

There are approximately 30 investor specialists and other staff in the IEAP who process investor complaints and inquiries. According to the investor specialists that we interviewed, on average, they spend 70% of their time on investor complaints (45% on processing investor complaints and 25% on intelligence analysis) and 30% on inquiries. This does not include any time spent on administrative or explicit investor education activities (*e.g.*, Investor's Town Meetings).

AUDIT RESULTS

INVESTOR EDUCATION ACTIVITIES

The IEAP has been successful in achieving its educational objective and enhancing its investor education programs. The IEAP has:

- Organized a series of successful Investor's Town Meetings;
- Produced a comprehensive educational web site for investors using the Internet;
- Updated some pamphlets, developed several new pamphlets, and made the pamphlets available on its web site;
- Increased outreach programs through the media and coordinated with over 50 partners to improve the distribution of education materials;
- Established a toll free telephone number which provides information to investors (*e.g.*, order pamphlets, obtain information about corporate filings); and
- Participated in the Facts on Saving and Investing Campaign.

Overall, the nonprofit investor education organizations we surveyed believe that the IEAP's educational activities are very effective. They also believe that the Commission's investor education information is readily available to investors.

Moreover, the IEAP has recognized a major new educational challenge. Because of the increased responsibility that individuals have for their own financial future, there is a pressing need to reach and educate financially illiterate or unsophisticated investors.

In our survey of nonprofit investor education organizations, we solicited suggestions, assuming funding and staffing were not issues, to improve the Commission's IEAP and, specifically, how to enhance the education of financially illiterate or unsophisticated investors (See Appendix A for a list of their suggestions).

Recommendation A

OIEA, in consultation with the Office of Economic Analysis (OEA), should evaluate the suggestions from nonprofit investor education organizations (See Appendix A) and implement them, as appropriate.

According to OIEA, they had already considered some of these suggestions prior to the audit and they have since considered the other suggestions.

UNIFORMITY OF IEAP PROCEDURES

In order to achieve the complaint processing objective, the Commission set a goal for OIEA to:

“...implement[ing] and administer[ing] a nationwide system for resolving investor complaints...”⁴

OIEA has responsibility to implement this goal, but not the authority. Regional managers, not OIEA, supervise the investor specialists in the field offices. Regional Directors report to the Director of Enforcement and he evaluates their performance. OIEA has no authority to direct or evaluate field office investor specialists.

The IEAP has not fully achieved the goal of a nationwide system. Significant differences in important IEAP procedures between OIEA and the field offices exist. In some instances, these differences result in investors receiving different services or advice, depending on which office the investor contacts. OIEA, which receives approximately 50% of the IEAP's complaints and inquiries, has uniform internal procedures.

Examples of disparate IEAP procedures are presented below.

Responses to Investor Complaints and Inquiries

We posed as fictitious investors by making telephone calls, writing letters, and sending E-mails in late February and early March 1999. We used three different scenarios for the field offices and OIEA.⁵

The quality of some of the responses varied considerably. In fact, some of the answers to the same test question we received were mutually exclusive of one another. The timeliness of responses also varied widely. Notably, as of December 22, 1999, 5 of the 22 inquiries, made by either letter or E-mail to field offices, remained unanswered.

Referrals to SROs

Unlike OIEA and other field offices, the Northeast Regional Office (NERO) does not attempt to process routine investor complaints involving registered Broker-Dealers or their associated persons. Instead, for years it has analyzed the investor complaints and sent routine matters (approximately 40%) directly to the NASD or NYSE because they also process investor complaints.

Their process includes initiating an inspection/examination or enforcement action. Thus, they have different procedures for processing investor complaints than the IEAP. NERO stated that the forwarding procedure has worked very well and

⁴ 17 CFR 200.24a(b).

⁵ The Salt Lake City District Office does not process investor complaints and inquiries.

intelligence analysis for their Enforcement and Compliance Inspection and Examination programs has not suffered. We did not audit the SRO's processing of investor complaints.

Workload Recording and Timeliness Goals

According to OIEA, the IEAP received 72,173 investor complaints and inquiries for fiscal year 1999. However, OIEA and the field offices are not consistent in recording investor complaints and inquiries in ACTS. Some investor specialists in the field offices stated that because of limited resources, certain types of investor complaints and inquiries (*e.g.*, questions regarding the status of an investor's complaint, requests for pamphlets) are not recorded in ACTS.

In addition, OIEA and the field offices have different timeliness goals for responding to investor complaints and inquiries. For instance, the Atlanta District Office attempts to respond to E-mails and telephone calls within 24 hours and letters within three days. OIEA attempts to either close the matter or write the firm within 30 days regardless of whether the complaint or inquiry is from an E-mail or letter, and respond to telephone calls within 24 hours.

Review Procedures

OIEA investor specialists have their work reviewed by a Branch Chief. However, in the field offices the extent of supervisory review varies. The supervisor either: (1) periodically spot checks the investor specialist's work, (2) relies on the investor specialist to bring novel, complex, or unique situations to the supervisor's attention, or (3) reviews everything. Field office supervisors of IEAP staff are primarily supervisors in either the Enforcement or Compliance Inspection and Examination programs and have no direct experience in the IEAP program. However, they provide answers to investor inquiries on complex or novel situations.

According to the Division of Enforcement, the field office investor specialists are quite experienced and seek assistance from supervisors when needed. In addition, according to the Division of Enforcement, Enforcement and Examination staff in the field offices address investor complaints in the course of their investigations and examinations.

Letters to Investors

OIEA sends two letters to investors: an initial acknowledgment letter and a more detailed letter later. The field offices combine these two letters into one letter. The letter is sent after the IEAP sends a letter (*i.e.*, requesting a response to the investor's complaint) to the firm.

The substance of letters sent by OIEA and the field office differ in the information they provide about arbitration, the statute of limitations, and subsequent actions to be taken by the IEAP. The letters' format and wording also differs widely. OIEA provided the field offices with copies of their form letters during the audit.

Investor Surveys

OIEA regularly sends investors a survey questionnaire once their complaint is closed. However, the field offices do not survey investors.⁶

Recommendation B

OIEA, in consultation with the Regional Directors, the Division of Enforcement, and the Office of Executive Director (OED), should reengineer (*i.e.*, prepare a business process analysis as required in the Clinger-Cohen Act) the IEAP into a national program with sensitivity to local conditions. The quality of information and services provided to investors should not be arbitrarily dependent on which office the investor contacts. To achieve this goal, OIEA should:⁷

- Develop and implement uniform complaint and inquiry processing policies and procedures for OIEA and the field offices; and
- Monitor information provided to investors for compliance with its policies and procedures.

Recommendation C

The Division of Enforcement should revise the performance plans of Regional Directors and District Administrators to include a performance element relating to the achievement of nationwide Investor Education and Assistance Program. For instance, this new performance element could be incorporated into the existing Enforcement performance elements, but refer specifically to the IEAP's program goals. OIEA should provide input to the Division of Enforcement for each office head's annual performance appraisal.

To improve the uniformity and consistency of responses, OIEA:

- Implemented a section of frequently asked questions and answers, and a search key by topic function on its web site;
- Has held investor specialist teleconferences;
- Has visited each of the field offices; and
- Plans an investor specialist conference in May 2000.

According to the Division of Enforcement, the Regional and District Office Investor Specialists want a consistent approach to handling investor complaints and inquiries. The field office heads also are in favor of this objective. The fact that the Investor Specialists in the Regional and District Offices do not report directly to

⁶ We believe that a sampling of investors is the best approach. Given the large number of complaints received each year, a statistical sample would be more efficient while still providing the IEAP with reliable information. The new computer system (see Appendix E) could be designed to automatically survey investors (*e.g.*, every fiftieth investor could receive a survey questionnaire after their complaint is closed).

⁷ OIEA stated that they would probably need another staff person (*e.g.*, a Branch Chief, GS-14) to implement the recommendation. The person's primary responsibility would be to coordinate with the field offices.

OIEA should not be, in the view of the Regional Directors and District Administrators, an obstacle in achieving an effective nationwide system for dealing with investor complaints. They also point out that both the much larger Enforcement and Examination staffs, who work in all 11 field offices and who report to the field office heads, are able to conduct programs which are consistent with a nationwide set of priorities. The field offices are able to do this by working closely with Enforcement and Office of Compliance Inspections and Examinations (OCIE) in Washington, D.C., which provide the necessary guidance and direction to the field offices to ensure a consistent approach in those programs. Also, the bankruptcy staff in the field offices (the bankruptcy program operates in some field offices), have the same relationship with the Office of General Counsel (OGC). OGC provides the bankruptcy staff with overall guidance on the Commission's bankruptcy program.

According to the field offices, one of the factors contributing to any perceived inconsistency in the IEAP is the lack of guidelines and recommended responses to common inquiries. This can be addressed, in the view of the Regional Directors and District Administrators, if OIEA would adopt some of the procedures used by Enforcement and OCIE. These procedures and forms of guidance have successfully ensured a consistent approach and the flexibility to deal with issues and problems unique to each field office. During the audit, OIEA provided the field offices with standardized form letters to be sent to investors. OIEA also improved its web site by including frequently asked questions and answers on a variety of topics. OIEA believes that the frequently asked questions and answers will improve efficiency and consistency of information provided to investors.

PROCESSING INVESTOR COMPLAINTS

The IEAP has responsibility for processing investor complaints against regulated entities and individuals, and assuring that they respond to such complaints.

As noted in the Background Section, investor specialists generally send a letter or E-mail to the brokerage firm or company identified in the investor's complaint asking them to respond in writing to the investor and the IEAP. The IEAP also informs investors about its role and the action investors can take on their own to address their complaints (*e.g.*, arbitration). The IEAP also refers some investor complaints to the Division of Enforcement, OCIE, the field offices, SROs, state regulators, or other federal agencies.

Success in Achieving the IEAP Processing Objective

We reviewed a representative sample of 53 investor complaint files processed during calendar year 1998, in order to evaluate the effectiveness (*i.e.*, outcomes) of the IEAP in processing investor complaints. We did not attempt to determine whether these investor complaints were later addressed using dispute resolution methods (*e.g.*, arbitration) discussed in the IEAP's educational materials. Nor did we attempt to analyze whether these investor complaints should have been successfully addressed. We found wide variety among the outcomes that resulted from processing by IEAP (see Appendix B for a complete description of the methodology used and our results).

OIEA stated that not all investor complaints are meritorious. For instance, OIEA stated that many investors do not understand when a firm or individual may have violated the federal securities laws. OIEA believes that, for these investors, the IEAP process serves as a method to educate investors (the investor receives explanations and educational materials) about their rights and the merits of their complaint before they hire an attorney or undertake more expensive dispute resolution methods. Our results do not reflect the level of achievement of the IEAP's educational objectives in the processing of investor complaints.

OIEA also believes that the processing of investor complaints acts as a deterrent to violative behavior by firms. Because firms are aware that the IEAP is actively involved in investor complaints, OIEA assumes that they will be deterred from activities that would bring them to the Commission's attention. We did not perform audit work that would confirm or refute this assumption.

We believe that the current IEAP's procedures for processing investor complaints should be reevaluated with a focus on outcomes. The reengineering effort should focus on differences among types of investor complaints and establish appropriate procedures for processing each type. For example, some investor complaints:

- Indicate that the firm has acknowledged the problem and will address the complaint. The IEAP could inform the investor that they should notify the IEAP, within a few months, if the complaint is not addressed.
- Indicate that the investor did not try to address the complaint with the firm's compliance department. The IEAP could provide the investor with the address and telephone number of the firm's compliance department. The investor should notify the IEAP, within a few months, if the complaint is not addressed.
- Indicate a minor problem (*e.g.*, non-receipt of an account statement). IEAP staff could telephone, FAX, or E-mail the firm's compliance department, if the investor previously tried unsuccessfully.
- Indicate a lack of merit based on the information provided. The IEAP should ask the investor to provide additional information.
- Indicate a meritorious issue (especially a sales practice) that is below the threshold for the Division of Enforcement or field offices to investigate. The IEAP could immediately forward the investor's complaint to the appropriate SRO⁸ (although a copy of the investor's complaint should be made and recorded in ACTS before it is referred).⁹

Any reengineering effort should also incorporate IEAP educational and intelligence analysis objectives. For instance, each investor could receive explanations and other educational materials.

⁸ According to the NASD and NYSE, if additional investor complaints were sent to the SROs, they would need to increase their staffing. However, some investor complaints received by the IEAP may also be duplicative of investor complaints received by an SRO.

⁹ Although we did not audit SRO procedures, we understand that their complaint procedures differ significantly from those used by the IEAP.

Recommendation D

OIEA, in consultation with the Regional Directors, OCIE, the Division of Enforcement, and the OED (and in conjunction with Recommendation B above), should reengineer (*i.e.*, prepare a business process analysis as required in the Clinger-Cohen Act) the IEAP's procedures for processing investor complaints. The new procedures should include a variety of ways for the investor specialist to process different types of investor complaints. The determination of which procedure to use should be made by IEAP staff or management during an initial review of the investor's complaint.

According to OIEA, they have substantially begun to reengineer the procedures for processing investor complaints. We did not review the new procedures during this audit.

INTELLIGENCE ANALYSIS

Another objective of the IEAP's investor complaint process is to gather intelligence information for the IEAP, the Division of Enforcement, OCIE, and the field offices. In fact, the IEAP is presented as part of the "Intelligence Analysis" activity of the "Prevention and Suppression of Fraud" program in the Commission's budget submissions to the President and Congress.

The IEAP makes numerous informal and formal referrals of specific matters throughout the year. In addition, OIEA has begun distributing a report mostly for the Division of Enforcement, OCIE, and the field offices, which identifies investor complaints on certain topics (*e.g.*, Microcap fraud) against certain firms. It highlights possible cases, which warrant an investigation or examination. According to OIEA, it plans to issue similar reports in the future, as needed.¹⁰ The IEAP, the Division of Enforcement, OCIE, and the field offices use this type of information to allocate their resources.

The IEAP has only been partially successful in achieving its intelligence analysis objective. The IEAP uses investor complaint and inquiry data to initiate educational campaigns. However, based on our testing, the Enforcement program at headquarters and the field offices does not use IEAP investor complaints in initiating or conducting investigations. We did not perform similar testing with respect to OCIE and the inspection and examination programs in the field offices because the information was not readily available.

Use of Complaint Intelligence by IEAP

OIEA believes that investor complaints are an important source for identifying potential problems in the securities industry. Trends or observations from investor complaints can lead to the Commission developing an educational campaign. For instance, OIEA stated that the Commission's recent educational campaign about on-

¹⁰ OCIE believes that the OIEA report should be distributed on a regular basis, instead of periodically. We do not have an opinion as to whether OCIE's intelligence analysis would be improved by regular or periodic reports.

line trading was primarily the result of an increase in investor complaints about on-line trading. According to OIEA, they supplied data for a recent Commission report and to the General Accounting Office about on-line trading.

Use of IEAP Intelligence by the Enforcement Program

As part of our effort to evaluate the importance of IEAP investor complaint intelligence information to the Commission's Enforcement Program, we sought to determine how the intelligence was used in conducting actual investigations.¹¹

The IEAP's role is to forward investor complaints, which relate to an on-going investigation or appear to warrant an investigation to the Enforcement program. However, the Enforcement program is responsible for deciding how to use (*e.g.*, initiating an investigation) the IEAP's referral (*i.e.*, the investor's complaint). We analyzed a representative sample of 50 Enforcement investigations.¹² Audit steps included searching the Name Relationship Search Index (NRSI) computer system for information concerning these investigations and interviewing the attorney assigned to the investigations. We found that although the number of investigations involving investor complaints appears to be understated in the system records, IEAP investor complaint intelligence did not generally appear to be critical to the conduct of Enforcement investigations, based on our sample.

Definition of Case Origin

Twelve percent of the 50 Enforcement investigations, which we selected in our sample, were recorded in the NRSI computer system as an "investor complaint" being its primary or secondary case origin. However, based on interviews with Enforcement attorneys, 32% of the same 50 Enforcement investigations were initiated, at least in part, by investor complaints received somewhere within the Commission (although not necessarily by the IEAP).

The difference appeared to be caused by confusion among the staff as to how they should interpret the origin of the investigation. For instance, in several cases "informant" was recorded in NRSI as the case origin, although the Enforcement attorney acknowledged that an investor complaint was the case origin. Other recording differences involved instances in which an investor complaint was received by another Commission division and then that division referred it to Enforcement (the Enforcement attorney recorded the case origin as "referral", not an investor complaint).

According to the Division of Enforcement, anywhere from 17% to 20% of their investigations are initiated, at least in part, from investor complaints (*i.e.*, "investor complaint" is recorded as either the primary or secondary origin). However as a result of confusion over some of the case origin definitions, the reported number of

¹¹ Not all investor complaints are received by the IEAP. For instance, the Internet Group in the Division of Enforcement receives investor complaints, which could lead to Enforcement investigations. Investor complaints are also sent directly to the Enforcement program besides the Internet Group.

¹² We selected 50 of approximately 430 Division of Enforcement and field office investigations, which were closed in fiscal year 1998.

Enforcement investigations initiated, at least in part, by investor complaints could be materially understated in the Commission's systems.¹³

Enforcement Use of IEAP Intelligence

In interviews with the Enforcement attorneys assigned to our 50 sample cases, we discussed how critical IEAP investor complaints were to the conduct of the investigation. We specifically asked whether the investigation was initiated based on the investor complaint or if the investor complaint provided information that was critical or valuable to the investigation. The results indicated that (See Appendix D for a complete description of the methodology used and our analysis):

- None of the Enforcement investigations in our sample were initiated primarily because of an IEAP investor complaint.
- In one investigation, an IEAP investor complaint was the secondary origin of the investigation. The Enforcement attorney believed that the investor's complaint made the investigation more efficient, but that they would have gotten the information elsewhere in a timely manner.
- There were two instances in which an IEAP investor complaint was received after the investigation was already initiated. In one instance, the Enforcement attorney believed that the investor's complaint was not useful at all. In the other investigation, the Enforcement attorney believed that the investor's complaint made the investigation more efficient, but that they would have gotten the information elsewhere in a timely manner.

Many investor complaints are received directly by the Enforcement program (*e.g.*, the Internet Group) or elsewhere in the Commission, rather than through the IEAP. However, some of the IEAP investor complaints may have led to OCIE and field office examinations, which in turn led to Enforcement investigations.¹⁴

OIEA, the Division of Enforcement, and the field offices have begun to discuss new policies and procedures for forwarding meritorious investor complaints, which are below the threshold for the Division of Enforcement or the field offices to investigate, directly to either an SRO or state regulator. They are attempting to develop a more uniform approach throughout the Enforcement program.

Use of IEAP Intelligence by OCIE and the Field Offices

OCIE and the field offices use investor complaints to help target some of their cause examinations. According to OCIE, IEAP investor complaints occasionally lead to inspections and examinations. However, even occasional investor complaints can result in significant inspection and examination findings. We did not perform any audit work to determine the extent of which investor complaints referred by the

¹³ During the audit, we issued an audit memorandum to the Division of Enforcement on this issue. See Appendix C for a copy of that memorandum.

¹⁴ OCIE stated that there are alternative ways to collect complaint intelligence (*e.g.*, analyze SRO investor complaint records). According to OIEA, however, the quality and timeliness of the information from the SROs may vary.

IEAP were used to target inspections or examinations because the data is not readily available.

OCIE stated that IEAP intelligence analysis could be improved if investor complaints (*i.e.*, the text) were scanned into the Agency Correspondence & Tracking System (ACTS), and if they had access to ACTS data.¹⁵ Currently, the paper investor complaint file is needed to understand the facts surrounding the investor's complaint. Our audit report on SRO Arbitration (Audit No. 289) recommended that OIEA provide OCIE and the field offices with read-only access, and a complete list of all the codes used to record complaints and inquiries into ACTS.

AGENCY CORRESPONDENCE & TRACKING SYSTEM (ACTS)

ACTS was implemented years ago and has become outdated. OIEA has been searching for a replacement computer system that could improve efficiency and ease of use. Intelligence analysis suffers with the current computer system, since many field office staff (*e.g.*, investor specialists) do not record all complaint and inquiry data into the current computer system (because of limited resources and difficulties in using the current system).

According to OIEA, because of Y2K and other priorities, the Office of Information Technology (OIT) has been unable to develop a new computer system. However, a new computer system is becoming increasingly critical because of increasing complaint and inquiry workload. Also, reengineering the IEAP into a national program and reengineering the investor complaint processing procedures will fundamentally change the type of information needed by IEAP management. Appendix E of this report contains a list of additional suggestions for the new computer system.

Recommendation E

As soon as possible after the completion of the business process reengineering described in Recommendations B and D above, OIEA, in consultation with OIT, OED, and the Office of Administrative and Personnel Management, should request sufficient resources and priority from the Information Technology Capital Planning Committee to reengineer ACTS.

PERFORMANCE MEASURES

As previously mentioned, we recommend that ACTS be reengineered. In addition to recording investor complaints and inquiries, ACTS should also be designed to report performance (*i.e.*, outcome) measures.

In 1993, Congress passed the Government Performance and Results Act (GPRA). The statute requires agencies to focus budget requests on performance goals, and compare actual performance with these goals. It also requires that agencies develop

¹⁵ Currently, ACTS only records descriptive information (*e.g.*, that an investor's complaint was received, a code representing the nature of the complaint).

“outcome” performance measures to supplement the more traditional “output” measures.¹⁶ ACTS records outcome measures (*e.g.*, money recovered, explanations provided to investors, referrals, transactions reversed), but they are not reported. Instead, the IEAP reports output measures (*i.e.*, the number of complaints and inquiries received).

Also, the output measures reported by ACTS (when we conducted the audit) were unclear. For example, processing an investor’s complaint might involve numerous telephone calls or letters (*i.e.*, “Other Contacts”).¹⁷ According to OIEA, in fiscal year 1999, there were 72,173 investor complaints and inquiries received by the IEAP, of which 9,358 (13%) were “Other Contacts”. We believe that recording “Other Contacts” in ACTS is an administrative burden with limited programmatic benefits.

In 1998, OIEA began disclosing (*e.g.*, in the Commission’s annual report) the number of “Other Contacts”, but they are still recorded in ACTS. Prior to 1998, “Other Contacts” were reported as inquiries.

Recommendation F

OIEA, in consultation with the Division of Enforcement, the field offices, and the Office of the Comptroller, should consider:

- Not recording subsequent communications in ACTS; and
- Modifying the current IEAP performance measures that are reported to emphasize the achievement of outcome measures, instead of output measures.

MONITORING THE REENGINEERING EFFORTS

We found that improvements are needed in three main areas: reengineering the IEAP into a truly national program by having uniform policies and procedures, reengineering the IEAP’s processing of investor complaints, and replacing the IEAP’s computer system (*i.e.*, ACTS). We believe that the Chairman and the Capital Planning Committee should be informed of the progress made in implementing the necessary corrective actions.

Recommendation G

OIEA, in consultation with OED, OCIE, the Regional Directors, and the Division of Enforcement, should distribute brief (*e.g.*, less than five pages) quarterly status reports (with milestones and dates) to the Chairman and the Capital Planning Committee on the progress made in implementing the following recommendations made in this audit report (the recommendations and findings are discussed in greater detail in the appropriate sections of the report):

¹⁶ An output measure relates to the number of units produced by an activity (*e.g.*, number of letters sent or telephone calls received). An outcome measure relates to the results of the letters or telephone calls to a desired outcome (*e.g.*, money recovered).

¹⁷ “Other Contacts” represent repeat contacts, contacts with insufficient information, etc.

- Reengineering the IEAP into a national program by developing and implementing uniform complaint and inquiry processing policies and procedures for OIEA and the field offices (Recommendation B).
- Reengineering the IEAP's procedures for processing investor complaints. The new procedures should consist of a variety of ways for the investor specialist to process investor complaints (Recommendation D).
- Developing and approving a system requirements document for a new computer system to replace ACTS. Implementing a new computer system upon approval of the system requirements document (Recommendation E).

Recommendation H

The Office of Executive Director, in consultation with OIEA, OCIE, the Regional Directors, and the Division of Enforcement, should semiannually (beginning in November 2000) provide the Chairman with an oral briefing describing the progress made in implementing the recommendations described in this audit report and plans for the next six-month period. The May 2001 briefing should specifically discuss whether the IEAP is operating as a unified national program. If the program is not operating as a unified national program, the OED should discuss alternative solutions, including centralizing the IEAP and its staff in Washington, D.C., with the Chairman.

APPENDIX A

INVESTOR EDUCATION SUGGESTIONS MADE BY NONPROFIT ORGANIZATIONS

In our survey of nonprofit investor education organizations, we solicited suggestions, assuming funding and staffing were not issues, to improve the Commission's IEAP and, specifically, how to enhance the education of financially illiterate or unsophisticated investors.

The nonprofit organizations offered several suggestions¹⁸ to make the IEAP's investor education efforts more effective:

- Have regular television programs or messages on cable (*e.g.*, CNN).
- Broadcast the Investor's Town Meetings on the Commission's web page and increase the number of Investor's Town Meetings, as the Chairman's time permits.¹⁹
- Clearly indicate on the Commission's web page where the educational materials can be found.²⁰
- Target the IEAP's educational materials to specific audiences (*e.g.*, based on ethnic, gender, age, and similar considerations), because different methods of promoting the educational materials are needed for different audiences.
- Continue the IEAP's partnerships with educational organizations. Many of these organizations have expertise, experience, and established distribution networks.
- Provide libraries across the country with educational materials and help them to promote the material.²¹
- Translate the IEAP's educational materials into other languages, to reach additional segments of the population.²²
- Increase the availability of the Commission's staff to speak at educational forums, especially outside of Washington, DC.

¹⁸ Some of their suggestions would require additional funding and/or Congressional approval. One way to fund some of these suggestions would be to continue to closely coordinate with the Department of Labor. In 1997 the "Savings Are Vital to Everyone's Retirement Act" was signed. The purpose of the Act was to raise public awareness of the need to increase personal savings so individuals will have a secure and comfortable retirement. The Act specifically authorizes the Department of Labor to use public service announcements.

¹⁹ The National Town Meeting on Savings and Investing (April 4, 1998) was broadcasted on the Internet by a nonprofit educational organization. Also, OIEA taped the November 20, 1999 Investor's Town Meeting and it is available on the IEAP web site.

²⁰ During the audit, OIEA improved its web site so that investor educational materials can be more easily found.

²¹ OIEA has begun to provide schools with educational materials.

²² OIEA has translated some educational materials into Spanish.

APPENDIX B

REVIEW OF INVESTOR COMPLAINT FILES

Purpose

We reviewed 53 investor complaint files to evaluate the outcome of the processing performed by the IEAP (*i.e.*, corresponding with the investor and firm involved)²³. We determined effectiveness by reviewing the nature of the investor's complaint and the firm's response, among other documentation in the investor's complaint file.

Methodology

We had OEA, in consultation with OIEA, create a report from ACTS listing all investor complaints received and closed by the IEAP in calendar year 1998 (we did not audit ACTS). Approximately 8,899 investor complaints were received and closed in calendar year 1998.

OEA stated that for statistical purposes, we should review at least 50 investor complaint files. We selected 53 investor complaint files, based on a random number list created by OEA. In reviewing the investor complaint files, 80 investor complaint files had to be rejected and were replaced. Some of the common reasons for rejecting files were:

- The investor's complaint file was misplaced or the file number was assigned to the Office of Filings and Information Services (OFIS).²⁴
- The investor's complaint did not require the investor specialist to write the firm a letter.
- The investor's complaint was more of an inquiry rather than an investor complaint.
- The investor's complaint file was closed and transferred to another case number.
- The investor's complaint was transferred to an SRO.

Analysis

Once our sample was selected, we analyzed the outcomes of the IEAP's efforts in processing the complaints. The outcomes of the IEAP's efforts appeared to fall into six categories (approximate percentages for each outcome are in bold). The following is a listing of the cases reviewed and a description of the investor complaint and/or action: ²⁵

²³ The results apply only to complaints processed by IEAP and not the program as a whole.

²⁴ The Public Reference Branch in OFIS also uses the ACTS system to record inquiries they receive from the public.

²⁵ The confidence interval for this sample was 90%. This means that the 5.7% finding could be as low as 1.9% or as high as 11.3%. Similarly, the range for the 24.5% outcome is from 15.1% to 34%. The range for the 52.1% outcome is from 41.5% to 64.2%.

5.7% The IEAP processed the complaint and was successful in satisfying the investor.

- M-103841 (The stock certificates were not properly registered)
 HO-204268 (IRA fees were not adequately disclosed. The investor was reimbursed \$10)
 M-103782 (The firm is speeding-up the process of reissuing stolen bonds)

5.7% The investor's complaint was addressed after the IEAP's involvement in processing the complaint. However, either: (1) the firm and the investor began settlement negotiations prior to the IEAP's involvement, but the negotiations concluded afterwards; (2) the firm stated that it was unable to reach the investor in order to correct the problem; or (3) the investor stated that the firm acknowledged that it would remedy the problem prior to the IEAP's involvement.

- HO-171810 (There was unauthorized trading and suitability problems. The investor was reimbursed \$22,500)
 HO-203434 (There was a problem transferring IRA funds. The investor was reimbursed \$250)
 HO-200080 (The investor had canceled a transaction. The investor was reimbursed \$615)

5.7% The IEAP appropriately processed the investor's complaint. However, the investor apparently did not try to address the complaint with the firm prior to writing the IEAP. Given the routine nature of the investor complaint, it appears that the investor could have addressed the matter by writing the firm.

- LA-110266 (The investor did not receive an account statement)
 HO-199275 (The firm will contact the transfer agent and try to locate the stock certificates)
 HO-206441 (The dividend payments were being sent to the wrong bank account)

5.7% The IEAP appropriately processed the investor's complaint. However, the firm denied any wrongdoing. The firm apparently addressed the investor's allegation(s) as a sign of "good will", perhaps in response to the IEAP's correspondence.

- NY-111931 (The investor was charged a total of \$45 for three "bounced" checks. The firm reimbursed the investor)
 NY-111165 (The investor needed stock certificates to be replaced. The firm offered alternative methods besides a surety bond)

HO-212039 (A stock trade was not made because the investor had not complied with the applicable policies and procedures. The firm made partial restitution)

24.4% The investor and the firm addressed the complaint on their own, prior to the firm receiving the letter from the IEAP.

P-102465 (There were errors made in buy/sell transactions)
 HO-204041 (An advice management fee was accidentally charged)
 C-104433 (There were unauthorized stock and inaccurate information in the investor's account)
 NY-111595 (The firm would not sell securities without possession of the stock certificates and the stock price went down in the interim)
 HO-195610 (The investor could not get his or her funds transferred from one firm to another)
 HO-211495 (The firm consistently made name, account, and address typos and the firm could not seem to fix the problem)
 HO-196957 (The investor was unable to get his or her account transferred to another firm)
 M-103894 (The firm would not liquidate the investor's account)
 HO-204674 (The investor had not received quarterly reports or other information about the firm)
 HO-196838 (The firm did not stop the automatic redemption process despite the investor's request. The investor was reimbursed \$315.46)
 HO-197874 (A postal order was not credited to the investor's dividend reinvestment account)
 HO-212858 (There was a lack of disclosure and poor customer service)
 B-102385 (The firm inappropriately charged the investor a \$10 wire fee)

52.8% The firm denied the allegation(s). Although the investor may have achieved satisfaction through arbitration or other means recommended by the IEAP.

SF-103960 (Bonds defaulted and the investor claimed that false information was provided when they were purchased)
 HO-198084 (The investor's account was accidentally closed and the investor did not want to complete the necessary paperwork)
 M-103970 (The firm improperly withheld taxes, did not account for a stock split, would not close the account, and charged improper fees)
 LA-110922 (There were problems with the delivery of account records. The firm improperly liquidated the account and subsequent increases in the stock price were not realized)

- M-103815 (The investor was misled about the interest rate on bonds)
- HO-159216 (A public company issued new shares of common stock despite prior statements to the contrary)
- HO-198292 (The investor alleged churning)
- P-102347 (The investor cannot determine the status of an investment)
- M-103819 (The investor is only receiving interest on two bonds, one bond is missing from the investor's account)
- HO-208753 (The firm took too long to sell the investor's securities)
- HO-213558 (The investor was not informed of the need to exchange shares in a timely manner)
- NY-111232 (The firm would not issue a check from the sale of stock in the investor's name only)
- HO-201645 (The firm will not transfer the investor's IRA)
- P-102343 (The firm did not deliver stock certificates and is double charging on commissions)
- HO-200491 (The firm committed an unauthorized transaction and is delaying transferring the investor's account to another firm)
- HO-208698 (The investor is unable to purchase IPOs)
- A-102419 (The firm made false/inappropriate margin calls)
- SF-104381 (The firm would not make a stock trade because the firm believed that it was not in the investor's best interest)
- HO-199896 (Funds were inappropriately electronically transferred from the investor's mother's account)
- HO-197121 (The firm made an error in the investor's account. The firm gave the investor extra money and the investor wants to keep the money)
- HO-203091 (The firm must have committed fraud because the investor lost \$2,000)
- LA-110614 (The firm did not provide adequate advice and there were allegations involving suitability)
- LA-110445 (The investor alleged suitability problems and requested information on the status of the investor's investments)
- C-104434 (Bonds were not purchased at fair market value)
- C-104500 (Bonds were redeemed without the investor's approval)
- LA-110062 (The firm charged excessive fees in selling naked options)
- A-102404 (There was a lack of timeliness in transferring the investor's account and there was a failure to act in the investor's best interest)
- A-102405 (The firm did not transfer money to the proper account and the firm provided wrong information)

APPENDIX C

A U D I T M E M O R A N D U M N O . 1 8

July 19, 1999

To: Richard Walker**From:** Walter Stachnik**Re:** Reporting the Case Origins of Enforcement Investigations

The Office of Inspector General is conducting an audit of the Commission's Investor Education and Assistance Program (IEAP). During the audit, we identified an issue that relates to the Enforcement Program.

We sought to determine how often IEAP investor complaints were the cause (either the primary or secondary origin) of an Enforcement investigation (including the field offices). We reviewed a representative sample of 50 Enforcement investigations, which were closed in fiscal year 1998. We interviewed an Enforcement attorney who was knowledgeable about each investigation. Based on our interviews, 32% of the Enforcement investigations that we reviewed were initiated, at least in part, by investor complaints received somewhere within the Commission (although not necessarily by the IEAP).

We reviewed the Division of Enforcement's NRSI computer system to validate some of the information provided by the Enforcement attorneys. According to the NRSI system, only 12% of the same 50 Enforcement investigations were initiated, at least in part, by investor complaints. The Commission has reported (*e.g.*, in the budget) that approximately 17% to 20% of all Enforcement investigations are initiated, at least in part, by investor complaints. Thus, the findings from our review of the NRSI system are materially consistent with the information that has been reported by the Commission.

In order to identify the cause(s) of the discrepancy between the NRSI system and our interviews, we identified those Enforcement investigations where the NRSI information differed from what the Enforcement attorneys stated in the interviews. We found that the discrepancies are due mainly to how Enforcement attorneys interpret the case origin terms on Enforcement Form 19A.²⁶ For instance, in some of

²⁶ The data from Enforcement Form 19A is entered into the CATS system, which interfaces with NRSI.

these Enforcement investigations, the Enforcement attorneys stated in our interviews that an investor complaint was the primary origin of the investigation. However, NRSI recorded the case origin as an informant. A few Enforcement attorneys stated that there are other instances where there is uncertainty as to how they should interpret the case origin of the investigation. For example, if the complaint is received by another Division and then referred to Enforcement. Depending on how one interprets the case origin terms on Enforcement Form 19A, the reported number of Enforcement investigations that are initiated, at least in part, by investor complaints could be materially understated.

Recommendation A

The Division of Enforcement should review the case origin terms, as well as, any other potentially confusing terms (*e.g.*, Case Classification) on Enforcement Form 19A, and issue guidance to all Enforcement attorneys to clarify any potentially confusing terms.

Enforcement management agreed with our recommendation and has reviewed the terms. New case origins and accompanying guidance will go into effect when the new case tracking system, CATS 2000, goes on line.

cc: Mike Burnett
Diane Campbell
Steve Cutler
David Levine
Jim McConnell
Joan McKown
Darlene Pryor
Jennifer Scardino
Nancy Smith
Susan Wyderko

APPENDIX D

REVIEW OF ENFORCEMENT INVESTIGATIONS

Purpose

The purpose of our review of the Division of Enforcement's and the field offices' investigations was to determine to what extent investor complaints referred by the IEAP are important to the Enforcement program's ability to achieve its mission. We considered such factors as whether:

- The investigation was initiated (*e.g.*, primary or secondary origin) because of an investor complaint received by IEAP.
- An investor's complaint was used to provide valuable information (*e.g.*, witnesses), etc. We determined the importance by interviewing Enforcement attorney(s), who had knowledge of the investigation.

Methodology

We had the Office of Information Technology, in consultation with the Division of Enforcement create a report (*i.e.*, a listing) from the CATS system of all the Division of Enforcement and field office investigations, which were closed in fiscal year 1998. We did not audit CATS. There were approximately 430 Enforcement investigations closed in fiscal year 1998. OEA recommended that for statistical purposes, we should review at least 50 Enforcement investigations. We selected the 50 Enforcement investigations, based on a random number list, created by OEA. Enforcement investigations were rejected if the knowledgeable Enforcement attorney(s) no longer worked at the Commission or if the attorney(s) could not adequately remember the investigation and the next case on the random list was researched instead. Ultimately we researched 68 cases to find the 50 cases in which the Enforcement attorney was still available and knowledgeable.

Analysis

We found the following:²⁷

- In 13 of the 50 Enforcement investigations, an investor's complaint was the primary origin of the investigation. The Enforcement program received ten of the 13 investor complaints, and 2 were received elsewhere in the Commission (however, not by the IEAP). The remaining investor complaint was received from a miscellaneous source. None of the 13 investor complaints were received by the IEAP.
- In all 13 Enforcement investigations where an investor's complaint was the primary origin of the investigation, timeliness was not critical (*e.g.*, a TRO

²⁷ The confidence interval for this sample was 90%. This means that the 13 out of 50 finding could be as low as 8 out of 50 or as high as 18 out of 50. Similarly, the range for the 3 out of 50 outcome is from 1 to 6 out of 50. The results of the other outcomes should be considered anecdotal.

was not obtained) in the Enforcement program's ability to protect the investors.

- In the 13 Enforcement investigations where an investor's complaint was the primary origin of the investigation, there were 7 instances where the investor's complaint was the sole origin of the investigation.
- In 3 of the 50 Enforcement investigations, an investor's complaint was the secondary origin of the investigation. One of the 3 investor complaints was received by the IEAP, and 1 investor complaint was an SRO referral. The Enforcement attorney could not remember the source of the other investor complaint. With respect to the importance of the IEAP investor complaint, the Enforcement attorney believed that the investor's complaint was useful in terms of efficiency, but that they would have gotten the information elsewhere in a timely manner.
- In 3 of the 50 Enforcement investigations, an investor complaint was received after the investigation was initiated.²⁸ The IEAP was the source of 2 of the 3 investor complaints. In one instance the Enforcement attorney believed that the investor's complaint was not useful at all. In the other instance, the Enforcement attorney believed that the investor's complaint was useful in terms of efficiency, but that they would have gotten the information elsewhere in a timely manner.

²⁸ In 2 of the 50 Enforcement investigations, the Enforcement attorney could not remember whether an investor's complaint was received after the investigation was initiated.

APPENDIX E

Agency Correspondence & Tracking System (ACTS)

Numerous changes regarding the tracking system and the investor complaints and inquiries process could improve the effectiveness and efficiency of the IEAP, including:

- ***Automate as much of the investor specialists' work as technologically possible.*** For instance, currently, investor specialists spend time modifying boilerplate letters, creating response packages (*e.g.*, gathering pamphlets), and addressing envelopes. Letters and envelopes could automatically be computer generated. Pamphlets could be electronically stored, printed by the computer system, and enclosed with the response letter to the investor, without further staff intervention.
- ***Automate searches of other Commission databases.*** The investor specialists manually search the Division of Enforcement's computer systems to determine whether the investor's complaint relates to an on-going Enforcement matter. A new computer system could be developed so that this search is done automatically.
- ***Use bar codes to manage documents through the computer system.*** The new computer system could function as a document management system (*e.g.*, track pending workload, staff assignments, etc.) assigning work to the investor specialists and tracking pending investor complaints and inquiries. For instance, bar coding could be used for written inquiries. A bar code label would be placed on the incoming document and the computer system would record the number and the date and assign it to an investor specialist.
- ***Automatically generate and send closeout letters.*** We reviewed a judgmental sample of OIEA survey questionnaires. Many investors stated that they could not respond because they believed that their complaint was still open. Currently, investors are not informed when their complaint is closed. Some investors may be unnecessarily awaiting the IEAP's processing before taking action themselves (*e.g.*, arbitration). A closeout letter could be automatically generated by the new computer system once the investor's complaint or inquiry is closed in ACTS.²⁹
- ***Increase the use of the web site for receiving investor complaints.*** Investors could be asked to complete a complaint and inquiry form on the web site linked to the computer system. Information from the form would be automatically recorded in the new computer tracking system. OIEA has created an on-line investor complaint form, but OIEA is trying to improve its accessibility because investors may have a difficult time finding it. The new complaint form does not record information directly into ACTS.

²⁹ The current letter to the investor states that if the IEAP determines that the firm's response adequately responds to the allegation(s), the investor will not receive any additional correspondence from the IEAP.

- ***Separate authorities and duties.*** To strengthen management control of the investor complaint and inquiry process, a new computer system could require that only supervisors could close out investor complaints and inquiries in the computer system.
- ***Use user-friendly interfaces (such as Windows).*** The current system has multiple screens, restrictive data entry fields, problems with capitalization, and is unfriendly to users. Our prior audit report identified the need to replace ACTS because it was not user friendly. Any new computer system must overcome these limitations.
- ***Modify investor complaints and inquiries coding to minimize costs and confusion and to better satisfy Congressional and OMB reporting requirements (e.g., GPRA).*** Investor specialists code each investor complaint. Until recently, inquiries were also coded. Each code is a symbol, which describes the nature of the investor complaint, entity involved, security product involved, disposition, referral, and reasons for the referral. OIEA has assigned two investor specialists the responsibility of coding most investor complaints and inquiries because of the complexity and number (*e.g.*, 320) of codes, and the need to ensure consistency.
- ***Ensure Compliance with the Government Paperwork Elimination Act.*** Public Law 105-277 dated October 21, 1998 requires that government agencies must generally provide for the optional use and acceptance of electronic documents and signatures, and electronic record keeping where practicable, by October 2003. The new computer system should be compliant with all the applicable provisions of the Act.
- ***Scan the text of the investor's complaint.*** OCIE stated that IEAP intelligence analysis could be improved if investor complaints (*i.e.*, the text) were scanned into ACTS, and if they had access to ACTS data. Currently, ACTS only records descriptive information (*e.g.*, that an investor's complaint was received, a code representing the nature of the complaint). The paper investor complaint file is currently needed to learn the facts surrounding the investor's complaint.
- ***Provide OCIE and the field offices with read-only access and the ability to create reports.*** Our audit report on SRO Arbitration (Audit No. 289) recommended that OIEA provide OCIE and the field offices with read-only access, and a complete list of all the codes used to record complaints and inquiries into ACTS. The new computer system should also enable OCIE and the field offices to generate their own reports.